

City of Lincoln
Telecommunications/Cable Television Advisory Board
Meeting Minutes – April 24, 2014

Members Present: Andy Beecham, Steve Eggland, Ed Hoffman, John Neal, Jim Johnson, Laurie Thomas Lee, Art Zygielbaum

City Staff: Jamie Wenz, David Young

Representatives of Time Warner Cable (TWC): Jarad Falk, Tyler Hedrick, Bill Austin (attorney appearing on behalf of TWC)

Call to Order

Meeting was called to order at 4:00 p.m. by chair Ed Hoffman. Hoffman made note of the copy of the Open Meetings Act at the back of the room. Board members and guests introduced themselves.

Neal moved approval of the minutes from 10/24/2013; Eggland seconded, motion passed 7-0.

Zygielbaum moved approval of the minutes from 1/23/2014; Neal seconded; motion passed 7-0.

New Business

Nominations for Vice-Chair

Position of vice-chair had been vacated due to the resignation of Dara Troutman; election was held to fill the position.

Hoffman nominated Art Zygielbaum as Vice-Chair; Lee seconded. No other nominations were brought forward. Motion passed 7-0

Time Warner Comcast Transfer

Steve Huggenberger from the City Attorney's office distributed a copy of the filing that the City received from Comcast on 4/10/2014. The City is given 120 days to review the Comcast document. There are two important timeframes: we have a 120 day review period; Huggenberger has a short list entitled "Unresolved Franchise Issues." Second is a 30-day window; the City has the opportunity to challenge anything that we think is inaccurate in the application. Huggenberger thinks we need to come up with an evaluation of the franchise performance. We need to get those requests to ComCast as soon as we can. The 120-day period ends August 8th. The board would have to act quicker than that in order to get something to the City Council. An extension is possible but would need the approval of both parties.

Huggenberger would like to see a subcommittee act as advisory on the shorter 30-day period; the full board would probably have to address whatever the subcommittee comes up with.

Zygielbaum asked in terms of evaluating past performance what we have. Huggenberger said that we have customer complaints. We can look at public interest; whether the transfer affects competition; franchise issues that have not been complied with. Huggenberger would guess that if we come up with compliance issues, we will probably sit down with the attorneys and discuss. It might lead to a court case.

All that Huggenberger has is the written request to transfer from ComCast; no details.

Hoffman agrees that it is a good idea to have a subcommittee. 30-day timeline ends May 10.

Zygielbaum asked what happens if the merger is not approved. Huggenberger thought that the transfer would not be valid unless the merger is approved. From TWC, Falk thought that was correct, and Austin agreed.

Huggenberger said he sat in on a webinar about the merger earlier this afternoon; the speakers there thought that it would be 2015 before the final decision on the merger.

Zygielbaum asked if there is a reason to hold public hearings. Hoffman thinks that there should be a special meeting of the board after the subcommittee meets. He would want it to be sometime before the 120-day period expires.

Hoffman asked if the subcommittee could involve Huggenberger; Huggenberger agreed. With respect to the May 10th deadline, this is very quick; he would like to see two meetings before May 10th. Hoffman asked who would be interested. Hoffman thinks he would like to be available. We could set up a conference call for meetings if needed. Zygielbaum asked if subcommittee notes had

to be made public. Huggenberger said that subcommittees don't have to be. Huggenberger thinks that we will not have time to have another board meeting before the 30 days is up.

Eggland asked if we could extend the deadline; Huggenberger said that we could but he would not anticipate that they would agree with it.

Hoffman: Subcommittee would have to meet prior to the 120-day period. Would they have authority to speak on behalf of the board? Huggenberger thinks not.

Subcommittee would have to meet next week sometime as well as the week of May 5th.

Huggenberger thinks that it will be unlikely that we will find findings of inaccuracy, and that it would be fairly technical. He doesn't think a meeting of the board would be useful.

Zygielbaum suggested that we form the subcommittee, and if the subcommittee feels that a special meeting is needed they could call a meeting. Hoffman appointed the subcommittee members: Hoffman, Lee, Zygielbaum, and Neal; Huggenberger will also be asked to meet with the subcommittee. Hoffman will serve as chair for the subcommittee.

Hoffman moved the above members as the subcommittee; Johnson seconded, motion passed 7-0.

Hoffman asked if TWC had any comments. Falk said that initially TWC had said that they would be willing to divest 3000 subscribers nationally; he thinks that it might give regulators a little more ease with the agreement. In the last few days he's seen that ComCast is in agreement with Charter. Falk said they don't know. There are more questions than answers.

Huggenberger said that there were a significant number of ComCast subscribers that were not receiving the Form 394s. Falk said that's correct, but many TWC subscribers.

Old Business

Fiber conduit

Young addressed the board. He distributed a color map entitled "Lincoln ITS Communications Plan: Fiber Ring Structure" which is being considered in conjunction with the City/County Master Plan. There is about a 10-12 year plan at \$750,000 per year to add portions of the map which are colored green; if a proposed sales tax increase is passed by the voters this fall we could do add another \$750,000 per year and it could go to a 5-year plan instead of a 10-year plan. The City feels that there is great opportunity for use of the new fiber.

Zygielbaum asked if the City is putting in fiber on their own. Young said yes. Zygielbaum asked if there are restrictions on use; Young said that usage is restricted by state laws.

Young said that we have 90 miles today; about 30 miles is multi-mode; the rest is single mode.

Zygielbaum said that in the franchise there is the ability for the city to buy the franchise from the franchisee. He asked if that exists in the fiber as well. Young said that it does in a way. There is an option to buy assets if someone is leaving the City, and there are ways to do that. He doesn't think it's likely. Hoffman asked if the City would pay for that; Huggenberger said that it would depend on the agreement.

Zygielbaum asked if there is provision of ownership. Young said that the City owns the fiber that's placed in the right of way, but the property owner owns the fiber which is on their property. Zygielbaum asked if that means that the City would not be providing fiber directly to apartment complexes. Young said that is correct; we're a conduit but we don't own the connections.

Hoffman asked if there is something that the Board could do to help this process. Young is asking for the board members to help as community members, not for action by the board itself. There is great value to the community; he asks individual members to let their Council members know that they feel it's important. Whenever a new franchisee comes into the community this board would have the ability to comment on the franchise.

Zygielbaum asked if there are standards. Young said that we are limited in performance standards; we can dictate engineering standards. Zygielbaum said that he would like to see that the conduit is used as well as it can be; Young agreed.

Lee asked whether, if a user wanted to use the fiber for broadcasting of Cable TV, there would be a franchise required. Huggenberger said Yes. Lee said that if it were only broadband Internet then they wouldn't necessarily have to have a franchise, correct? Young said that's correct.

Hoffman asked if the initial \$750,000 per year plan has been approved; Young said it has, and it will be submitted to the Mayor.

Lee asked if there are just certain points on the rings where you can tap into the structure. Young said that theoretically you could tap in anywhere; however there are parts of the City that you couldn't really do this. Lee asked if the City defines where those points are. Young said yes; users have to apply for City approval.

Zygielbaum asked who is liable if a company comes in and starts pulling fiber, and breaks the conduit: the City or the company. Young said that the company is liable; they are required to buy insurance that will cover the City and other users of the conduit.

Wi-Fi Proof of Concept Proposal

Young distributed a Wi-Fi Proof of Concept Proposal.

The City will be installing Wi-Fi at Iron Horse Park, near 7th & Q Streets. There are about 1000 visitors every weekend. There will be a company that comes in to provide wi-fi to the park. There would be bandwidth to provide services. We would use the fiber, with a couple of local providers, and the fiber connection to our backbone. In return, if you log in to Haymarket wi-fi, the providers would get advertising on the login screen.

Young wants to make Lincoln a technology leader.

This information will be provided to the Mayor next week.

Hoffman asked with regard to how companies are going to advertise: What will it look like?

Young said that there will be login information: email address and age.

Lee asked if the City has the right to block content. Young said that we do have some right, but any that is done would be pretty low-key.

The City will have access to the login information. We will measure the bandwidth. We want a provider that is willing to provide a 1 GB link for the controller. Max of 10 MB per user per second. Initially we will have a time limit 30 minutes or 1 or 2 hours per user.

Zygielbaum asked what we are testing, since wi-fi is already a proven technology. Are we just testing the people of Lincoln? Young said that we are testing whether Lincoln will use it.

Hoffman asked if we are still seeking entities to help out. Young said that we have had some discussions; he is open to further discussions. Wants to start it sometime about May 15th or June 1st.

Hoffman commented that he was recently in South Korea; and every place that he went there was free wi-fi. Hoffman said he understands that Young is not asking the board for anything, but commented that he thinks that the time has come.

Young said that the initial run will be 6 months; he would like to see it cover the whole duration of the Farmers Market.

Lee asked if he has any threshold that will signify success. Young said that we will put out a survey with one question: "Do you value wi-fi in Lincoln?" Will see if we get a lot of complaints or a lot of compliments.

Hoffman: Would like to hear the results. Want to be involved in the process when you get the results and possibly weigh in on a request for additional funding.

Zygielbaum moved that we commend the efforts of the city to establish free wi-fi and encourage the experiment. Lee seconded. Motion passed 7-0.

Cell Towers

Nothing new.

Update on move of PEG to digital format.

No update.

Board vacancies.

Hoffman asked that those with names of potential members get the names to Diane Gonzolas.

Website update

This item was moved to next meeting, due to time as well as the desirability to have Diane Gonzolas available during the discussion.

Member Orientation

Orientation session is tentatively set for May 8th at 4 pm.

TWC report

Falk had nothing to report; he deferred to Tyler Hedrick, the new Public Access Coordinator. Hedrick distributed Local Access report; he thanked Wenz for helping with it since Wenz had done the job prior to Hedrick. Hedrick gave a brief biography of himself, he is from Waco, Texas; he worked most recently with Baylor University.

City comments

Wenz distributed the City's report. He commented that Education 10Health has never been reported in the past; he has added it to the report. Report includes sports programming, Star City News, 32 hours of live public meetings.

Public comments

Hoffman asked if there were public comments; there were none.

Adjournment

Meeting was adjourned at 5:28 p.m.

Respectfully submitted,
Jim Johnson, secretary